

DT Case No. 2025-01(M)

Decision No. DT 01/2025

**DISCIPLINARY TRIBUNAL  
OF THE HONG KONG CHARTERED GOVERNANCE INSTITUTE  
AND HONG KONG/CHINA DIVISION OF THE CHARTERED GOVERNANCE INSTITUTE**

**DECISION  
relating to  
Mr. Au Yeung Ho Yin ACG HKACG (#4088463)  
(Respondent)**

Date of Hearing: 16 July 2025

Date of Decision: 1 August 2025

1. In this Decision, The Hong Kong Chartered Governance Institute is referred to as the 'Institute'. The Institute is, and represents, the Hong Kong/China Division of The Chartered Governance Institute ('CGI') in this Decision.
2. On 17 August 2012, the Respondent was elected as a graduate of the Institute. For the Institute's disciplinary process, a graduate is treated as a member, albeit this may be a mitigating factor, particularly when the graduate's experience is in question. The Respondent, as with all graduates, undertook under their annual graduateship renewal to 'observe and be bound by the provisions of the Charter and Byelaws of CGI (**Byelaws**) and the Articles of Association of the Institute (**Articles**) and other rules and regulations (collectively the **Rules**) for the time being in force.' The Rules include the HKCGI Code of Professional Ethics and Conduct ('**Code**') and the equivalent 'CGI Code', adopted by CGI on 29 June 2022. For completeness, the Respondent was successfully elected as an Associate Member of the Chartered Governance Institute ('CGI') on 24 December 2020.

**A. Background**

3. In July 2022, the Secretariat, through routine monitoring, discovered, under a Securities and Futures Commission (**SFC**) press release (Press Release) dated 4 June 2019, that a person with a similar name to the Respondent was the subject person of an SFC application. As stated under the Press Release:

*'The Securities and Futures Commission (SFC) has commenced legal proceedings in the Court of First Instance to seek a court order to disqualify the former chief financial officer, company secretary and executive director of Fujian Nuoqi Co., Ltd. (Nuoqi), Mr Au Yeung Ho Yin ....'*

*'The SFC's action follows an investigation into certain withdrawals amounting to a substantial portion of the net proceeds of approximately RMB236.52 million from Nuoqi's global offering of its shares shortly after the company was listed on SEHK in January 2014. The withdrawals were made without proper approval from Nuoqi's board of directors, nor did they serve any genuine commercial purpose.'*

*'The SFC alleges that despite Au Yeung's knowledge of red flags regarding the withdrawals, he failed to discharge his duties as the chief financial officer and later as an executive director of Nuoqi in that he did not properly inquire into the basis for those withdrawals, alert and advise Nuoqi's board of directors about them, and ensure that the disclosure of information about the use of the global equity offering proceeds in Fujian Nuoqi's 2013 annual report was accurate.'*

4. Upon the Institute's query on 20 July 2022, the Respondent confirmed on 27 July 2022 that he was the person referred to in the Press Release. The Institute informed the Respondent on 29 July 2022 that the matter would proceed to disciplinary consideration.
5. On 3 July 2024, the Respondent wrote to the Institute that he had settled the matter with the SFC and provided a copy of the Court Order granted on 1 December 2023.

**B. IG Investigations, etc.**

6. Following receipt of the Court Order on 15 July 2024, the Institute's Investigation Group (IG) sent the Respondent an inquiry letter. The IG pointed out that under the Code, members, including the Respondent, must always be cognizant of their responsibilities towards the wider community. In this context, the Investigation Group is focused on whether the Respondent has breached the following Code provisions applicable to him as an Institute member:

- '1. Integrity
  - a. Acting professionally in their business dealings;
  - b. displaying a proper understanding and appreciation of their role and responsibilities;
  - c. avoiding involvement in any misleading behaviour;
  - d. not knowingly ignoring or turning a blind [eye] to misleading behaviour; and
  - e. avoid bringing the profession into disrepute.
2. High standard of service/professional competence
  - a. Maintaining professional knowledge and skills which are required to perform the role which members are employed to carry out;

- b. communicating effectively and promptly with their employers, clients, colleagues and stakeholders to ensure that the said parties can make informed decisions;*
  - c. acting within their level of competence; and*
  - d. upholding the requirements of the CGI Charter, CGI Byelaws, and HKCGI Articles of Association.*
- 3. *Transparency*  
*Transparency requires that members are clear and open in their business and professional conduct. This includes:*
  - a. being open and frank in any business dealings;*
  - b. not being underhanded in any business transaction; and*
  - c. treating all work as if it was reported in the public domain.*
- 4. *Professional behaviour*  
*Professional behaviour requires that members act in a way which conforms to the relevant laws of the jurisdiction in which they are residing and/or undertaking business transactions. It requires them also to pay regard to all regulations which may have a bearing on their actions and to adhere to the CGI Byelaws and HKCGI Articles of Association.'*

The IG further noted that the Respondent's replies will also be relevant to the Investigation Group in assessing whether there is any breach of HKCGI's Articles, CGI's Byelaw 23.8.

7. On 13 September 2024, the Respondent replied. In summary:

- His responsibilities focused on Hong Kong operations, including financial oversight, liaising with auditors, preparing annual reports, and investor relations. He clarified that he was not involved in PRC operations or had direct liaison with mainland banks, which limited his access to critical information.
- The Mainland management predominantly used verbal communication, with limited email trails, which hindered the documentation of decision-making processes. Critical company records were stored on PRC servers or in physical locations, to which he had extremely limited access.
- He explained that the SFC did not accept his explanations due to the limitations mentioned above and provided a legal opinion dated 30 November 2023 to support his assertions. Also, he explained that due to the lack of sufficient documentation to prove his work and efforts, he ultimately settled with the SFC through the 'Carecraft Procedure'. He emphasised the settlement was made under the constraints of limited evidence and the inability to retrieve critical documents which would have supported his defence.
- The management of the Company, in particular, Mr. Ding, the Executive Director, deliberately concealed the misappropriation of funds from the Respondent. The defendant asserts he derived no financial gain from the transfers and acted in good

faith. Despite constraints, he asserted that he had adhered to professional standards and did not engage in or condone misleading behaviour.

- Nuoqi's board of directors had no objections at the time to the two transfers involved in this case. He also discussed the transfers with the board, which expressed no concerns and supported the transactions. Also, external auditors reviewed bank statements and transfer documents but raised no red flags regarding disclosures.
- The Respondent also provided a timeline and rationale for the transfers:

#### **Transfer to Xiamen Bank Account (RMB160 million)**

- Timing: Executed on 27 January 2014 while the Respondent was away and then on leave and unaware of the account's existence
- Authority: The sole signatory, Mr. Ding, authorised the transfer under the pretext of PRC operational needs.
- Documentation: The Respondent requested supporting documents and received bank statements showing that funds were placed in fixed deposits; however, there was no evidence that they had been pledged to the bank. The Respondent only learnt this after being provided with information in early August 2014 that the funds had been applied under the pledge.
- The Respondent explained that since his 'role was to monitor the Group's financial position in Hong Kong, I never liaised with banks in the PRC and had not received any notification directly from banks in the PRC at any time before or after the completion of the transfer ... or information about how the monies ... had been used.'

#### **1st and 2nd Transfers to Sky Set (RMB50 million and HKD19.55 million)**

- Timing: For RMB 50M Executed on 27 January 2014 while the Respondent was away from Hong Kong, but the Respondent was alerted by the bank by email of the transfer.
- Purpose: The Respondent inquired, and Mr Ding described the transfer as "sincerity money" for potential brand acquisitions, consistent with the company's prospectus. The counterpart to the transfer had substantial real estate and would not abscond with the money.
- Approval Process: For the HK\$19.55M, the transfer fell under Mr. Ding's authority (RMB1+ million required his approval), bypassing board oversight.
- Post-Transfer Actions: The Respondent sought documentation and updates but relied on verbal assurances from Mr. Ding and Ms. Xu, the Group's legal and compliance officer in China.
- The Respondent asserted that he had never heard 'any member of the Board that they took issue with the transfers ... I was told and believed that the board knew and supported the ... transfers.'
- On the misleading disclosures under the 2013 Annual Report, the Respondent asserted that he 'did not consider it problematic at the time because the Group was exploring opportunities to acquire fashion brands', and the transfers were

'earnest monies.' Also, it is easy to complain about mismanagement with the benefit of hindsight, especially where Ding has absconded, was calculated to be fraudulent from the outset. Also, all bank statements were given to the external auditors.

#### **The Respondent highlighted his cooperation with regulators post-July 2014**

- Proactive Investigation: Assisted the board in probing the transfers and announcing findings.
- Regulatory Compliance: Continued to engage with the Stock Exchange and SFC without remuneration after his resignation in September 2014.

#### **In conclusion**

- Based on the above explanations, the Respondent submitted that:

*'I have discharged my duties towards the [c]ompany with integrity and competence to the best of my ability. At the material time, the management had deliberately withheld from me the defalcation and misappropriation of the Company's funds. In light of all the restraints imposed on me, I have acted professionally, and did not engage in any misleading behavior or turning a blind [eye] to any misleading behavior. I did not obtain any benefit or profit from the defalcation and misappropriation. My consent to the disqualification or was mainly given in light of the lack of evidence to defend myself in the SFC's legal proceedings.'*

*It is therefore submitted to the Investigation Group, after considering the factual circumstances set out in this letter, should not find that I have breached any of the professional rules under the HKCGI Code of Professional Ethics and Conduct identified in your letter of 15 July 2024.'*

8. On 18 October 2024, the SFC eventually published a further press release (the "Further Press Release). As stated under the Further Press Release:

*'The Securities and Futures Commission (SFC) has obtained a disqualification order in the Court of First Instance against Mr Au Yeung Ho Yin, the former chief financial officer (CFO) and executive director of Fujian Nuoqi Co., Ltd. (Nuoqi) for his failure to discharge his duties as a member of the senior management of Nuoqi ...'*

*'Au Yeung was disqualified from being a director, liquidator, receiver or manager of the property or business of any corporation in Hong Kong or being involved in the management of any corporation in Hong Kong, for a period of three years.... He was also ordered to pay the SFC's costs in the proceedings.'*

*'The disqualification order was made after Au Yeung admitted his failure to discharge his duties to oversee the accounting and finance functions of Nuoqi, advise and assist the board of directors of Nuoqi, and supervise the preparation of Nuoqi's accounts and financial reports and ensure proper corporate governance.'*

*'The SFC's investigation revealed that approximately RMB225 million, approximately 95% of the net proceeds of RMB236.52 million from Nuoqi's global offering of its shares (IPO proceeds), was withdrawn on multiple instances from Nuoqi's bank accounts by the company's former chairman. The withdrawals, which took place shortly after listing of Nuoqi shares in January 2014, were made without proper approval by Nuoqi's board of directors and did not serve any genuine commercial purpose.'*

*'Justice Peter Ng of the Court of First Instance remarked that Au Yeung has breached his duties as CFO by failing to investigate the transfers of RMB50 million and HK\$19.55 million, representing a portion of the unauthorised withdrawals totalling RMB225 million, for certain alleged acquisitions which were outside the scope specified in Nuoqi's listing prospectus for its global offering of shares ... He also failed to discharge his duties as an executive director of Nuoqi to alert his fellow directors about the transfers. Furthermore, he inserted a paragraph in Nuoqi's 2013 annual report stating that the unused IPO proceeds were deposited in Hong Kong licensed banks and would be used as outlined in the listing prospectus. This statement was false or misleading because RMB160 million out of the net IPO proceeds of RMB236.52 million was transferred to a Mainland bank and was not used within the scope specified in the listing prospectus.'*

9. After the Further Press Release was published on 6 November 2024, the IG sent the Respondent a further letter to allow him to supplement the information under his letter of 13 September 2025, summarised in paragraph 7 above.
10. On 7 November 2024, the Respondent responded to the HKCGI by citing the mitigating factors outlined by the Court of First Instance in the Reasons for Decision:

*'Agreed Mitigating Factors*

*...Ding had deliberately withheld from the Respondent the defalcation and misappropriation of the [c]ompany's funds, and the Respondent did not obtain any benefit or profit from the defalcation and misappropriation.*

*...The Respondent has been cooperative in relation to these proceedings ... and accepts liability.*

*...The Respondent has adopted a reasonable course of action...'*

Additionally, the Respondent asserted that the SFC's challenge of his work was made with the benefit of hindsight, and he had difficulty producing sufficient written evidence. Further, the 'big boss' [Ding] had his own agenda and deliberately withheld information from me, despite providing me with stringent human resource and manpower support for his work.

**C. IG's determination, etc.**

11. The IG met on 24 February 2025 and observed that under the Code, members should, among other things, always be cognizant of their responsibilities as professional persons towards the wider community. Thus, the IG is of the view that the breaches detailed in the Press Release and Further Press Release are relevant to the Institute's discipline and requisite professional standards.

12. The Respondent provided timely assistance throughout the investigation.

**IG's findings**

13. At the same meeting, and based on its independent assessment of the facts as presented and the Respondent's responses, it was considered that there were prima facie breaches by the Respondent of all the matters set out under paragraph 6, which form part of the HKCGI/CGI's disciplinary rules.

**IG Charges laid to DT**

14. Accordingly, the IG resolved that:

(a) A *prima facie* case merits and warrants consideration of disciplinary actions against the Respondent because of the Respondent's potential breaches of the Institute Articles and CGI Byelaws identified under the grounds identified in paragraph 6.

(b) The matter should be referred to the Disciplinary Tribunal for consideration.

15. On 21 March 2025, the IG finalised a 'Charge Sheet' and asked the DT to conduct its disciplinary hearing to consider and determine whether the Respondent was in breach of the following:

***Breaches of Codes, Rules & Regulations***

(1) **Institute Article 25.1(d)** – applicable where a member has acted in breach of the Articles of Association of the Institute or any rules, regulations, codes of practice or conduct, directions or instructions made or established by or under the authority of the Council, that Member, Graduate or Student shall be liable to be made subject by the Disciplinary Tribunal to any of the sanctions specified in Article 27.

(2) **CGI Byelaw 23.8(c)** – applicable where a member has failed to uphold the CGI Code.

*[Note: this is only applicable in respect of continuing conduct, if any, occurring after 29 June 2022 when CGI adopted the CGI Code (equivalent to the Code).]*

***Discredit/Disrepute of the Institute or Profession***

(1) **Institute Article 25.1(c)** – applicable where a member has conducted themselves, whether by act or default, in a manner that might or is likely to be discreditable to the Institute or the Profession.

(2) **CGI Byelaw 23.8(d)** – behaved by doing something or not doing something in a way that may be considered by the Disciplinary Tribunal to bring the Institute or the profession into disrepute.

#### **D. Disciplinary Hearing**

16. The DT, having considered the Charge Sheet, resolved that there was a case against the Respondent to answer and decided to convene a disciplinary hearing, fixed for 16 July 2025. On 13 May 2025, the Secretariat served the Notice of Disciplinary Hearing (with the Charge Sheet) to the Respondent. On 15 May 2025, the Respondent informed the Secretariat that he would not personally attend the hearing or send a representative.
17. At the DT's disciplinary hearing on 16 July 2025, in the absence of the Respondent, the charges and the Respondent's submissions were considered.
18. The DT considered:
  - (a) The material facts as disclosed in the Press Release and the Further Press Release.
  - (b) The Respondent's submissions on 13 September 2024 and 7 November 2024.
  - (c) The IG Charge Sheet dated 21 March 2025.
19. The DT determined, as noted in the SFC Press Release, that the Respondent was the company secretary of Nuoqi and the relevant question was whether a company secretary in the Respondent's position would have acted or omitted the actions in the same manner. The overconcentration of power in the hands of one person, Ding, including being the sole authorised signatory, and the large withdrawals made without proper board approvals, along with the over-reliance of Ding as 'big boss', are issues that are upfront and raise red flags, and did not arise only with hindsight. From the DT's independent consideration, it agrees with the rationale set out in the SFC's Press Release. Furthermore, the material and misleading disclosure in the 2013 Annual Report falls short of the expected standards under the Code, and is especially serious as a case of misleading disclosure. This was especially pertinent in the case at hand.

#### **E. Decisions**

The DT **DECIDES** that the charges against the Respondent, as set out under the IG Report, are established to the extent set out below.

##### ***Breaches of Code, Articles & Byelaws***

20. The first core principle of the Code that all members, graduates, and students are to adhere to is '**Integrity**'. In general, the DT notes that under the Code, displaying integrity requires members to act professionally in their business dealings and display a proper understanding and appreciation of their roles and responsibilities. In relation to this specific case, the DT considered the Respondent's actions or omissions detailed in paragraph 19 and has no hesitation in finding that the Respondent was in breach of the Integrity requirements under the Code, specifically in having failed to act professionally in his business dealings and display a proper understanding and appreciation of his roles and responsibilities.


21. The second core principle of the Code is that all members, graduates, and students must adhere to a '**High standard of service/professional competence**'. In general, a high standard of service or professional competence should be delivered throughout members' working lives. This involves an understanding of relevant technical, professional and business developments. Professional competence also considers the broader implications and expectations of our members. This includes acting within their level of competence. In relation to this specific case, the DT considered the Respondent, as detailed in paragraph 19, especially in allowing the misleading disclosure under the 2013 Annual Report, to be in serious breach of the expected high standard and professional competence.
22. Regarding the fourth core principle of '**professional behaviour**', breaches of the Code meant that the Respondent was also in breach of the Institute's Articles.
23. Further, the DT find that given the totality of the breaches, the regulatory involvement and identification of the Respondent as company secretary, the significance of the breaches which cleared out a large part (95%) of the IPO proceeds, and importantly the misleading nature of the 2013 Annual Report disclosure that the funds are in Hong Kong when they are in the China, might be discreditable to the Institute or the profession and/or may bring the Institute or the profession into disrepute.
24. For the above reasons, the DT finds that the Respondent is in breach of the following provisions of the Institute Articles and CGI Byelaw:
  - (a) **Institute Article 25.1(c)** –he had conducted himself, whether by act or default, in a manner that might or was likely to be discreditable to the Institute or the profession.
  - (b) **Institute Article 25.1(d)** - had breached any of the Articles of Association of the Institute or any rules, regulations, codes of practice or conduct, directions or instructions made or established by or under the authority of the Council, namely the Code.
  - (c) **CGI Byelaw 23.8(d)** - had behaved, by doing something or not doing something, in a way considered by the DT to bring the CGI or the profession into disrepute.

#### **F. Sanctions**

25. The DT considered that the Respondent had provided timely assistance in the investigation, was a graduate at the material time, and accepted the mitigating circumstances under paragraph 10. the DT will not impose any penalty beyond the time specified in the SFC's obtained disqualification order from the Court.
26. Taking into consideration the above factors, the DT **ORDERS** that:
  - (a) The Respondent's membership is suspended under Institute Article 27.1(c) and Byela 24.1(f) until the time of the expiry of the disqualification order obtained by the SFC, namely until 30 November 2026.

- (b) The Respondent shall pay the Institute's costs of HK\$10,000 under the Institute Article 27.1(g) and CGI Byelaw 24.1(b) within 28 days from the date that notice is served to the Respondent.
- (c) This Decision will be published on the Institute's website, with a summary in the CGJ journal, to serve as a public reprimand under Article 27.1(f) and Byelaw 24.1(a).
- (d) This Decision shall take effect after the expiry of the period to file an appeal with the Appeal Tribunal ('AT') or, in case of an appeal, until after the exhaustion of the appeal procedures.

*Note: According to the Institute Article 28 and CGI Byelaw 25, the Respondent shall be entitled to appeal against the Decision or any part of it by submitting, in writing, a request that the matter should be considered by the AT, specifying in the request the grounds to be relied on in support of the appeal. The Institute must receive the notice of intention to appeal within 28 days from the date of the Respondent being advised of this DT decision. It may be given to the person by whom the notice of the Decision was given, to the Secretary of the Institute, or any person authorised to receive such notice. If the notice of intention to appeal is provided by telephone or other electronic methods, it must be confirmed in writing within 14 days.*



**Duffy Wong FCG(CS, CGP) HKFCG(CS, CGP)**  
Chairman, the Disciplinary Tribunal  
The Hong Kong Chartered Governance Institute  
China Division of The Chartered Governance Institute